Quid Novi

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Surprise landslide:

HAROLD WINS

By Lynn Bailey

The more alert of you *Quid Novi* readers may have noticed that in the past weeks there were no election-oriented articles on our pages. Contrary to *Quid*'s usual policy of copying the big boys, we hesitated this time to supply the customary abusive but informative editorial comments that accompany any wave of political activity.

This was for two reasons. The first is that *Quid Novi*'s editorial policy emphasizes a sense of responsibility towards all students, resulting in equal and fair representation, in spite of its independent role. The second reason is that we need money so badly that we have to hit the *entire* group of candidates (because who is more likely to show up at the polls where we've incospicuously left our referendum lying around)??

This reporter however was approached by many people in the last few days with joyfully snide comments and truly thoughtful insights regarding the election excitement. Unfortunately the funniest people are not the most courageous, and so, having succumbed to the harrassment, and in response to numerous requests for more "honesty" in the pages of *Quid Novi*, (and since the referendum is over), we feel it is our duty to inform the readers that at least one student felt that the whole procedure was "just a bit too much." "It's as though having a position on the L.U.S. would look good on your C.V.," he suggested.

Cynical, you say?? But perhaps he doesn't see the humour in some of the traditional campaign activities we've tolerated as of late.

The written material, although any sensible student objects to reading anything "extra", was most informative. Thanks to Elissa Bernstein we are assured that first year students are undamaged. (But surely anyone with a wholesale connection for cardboard and red markers in that abundance is not so naive?) The pictures accompanying the advertisements were amusing as well but didn't help with actual identification. Those clean-cut bright-eyed young kids plastered all over the walls are unfortunately a far cry from the unshaven, red-eyed riff-raff we've seen loitering around this place.

Generally, one could say there were too many posters. This was a definite source of confusion to students as was evidenced by ballots marked 'Edward Greenspan" X. Roger Cutler's *"Saumer"* method was original and effective. But who *wouldn't* accept a flyer from a 6 ft. 2 in. hockey player who doesn't smile??

Those students forced to listen to campaign speeches from the endless line of candidates did not object so violently in the early morning when the droning merely prolonged the amount of time allotted for waking up. Indeed, the general feeling appeared to be one of satisfaction in knowing that others had dragged themselves out of bed for an 8:30 also (even if it was the first time Marek had done it all year). A serious suggestion was put forth that all the candidates get together and hold a student gathering at a certain time especially for speeches. In fact, with this approach, perhaps the candidates could choose a spokesman who could outline the most popular promises, leaving the others to sing, dance and do other worthy tricks for the rest of the hour. This, he felt, would be truly deserving of a vote.

The biggest source of disappointment to students was the lack of overt bribery throughout the campaign. Obviously, smiles and kind words don't make an impression on the mind of a calcuating student at law. Certain students feel we will have truly reached the big

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Procedural motions and emotional proceedings

By Joseph Rikhof

The General Assembly had a full agenda last Thursday, so full in fact, that of the five items announced, only one could be voted upon and that only after a vote was requested a couple of minutes prior to the end of the meeting.

The topic that was discussed was the Bozac motion. Antoinette Bozac introduced the motion by explaining the issue. The Executive of the LUS Council had donated $250.00 to the Victor Regalado Defence Fund which needed the funds to place an ad in the local newspaper. Afterwards the Council was informed of this action and asked to ratify the Executive decision. According to Bozac, the motion she presented had nothing to do with Regalado himself but the unilateral action of the Executive was in question. It was a question of procedure and the extent of the mandate of the Executive of the LUS. As she remarked, if an individual wants to support an action such as Regalado it should be their own decision and should not be decided on by the LUS president. Moreover, in a time of cutbacks, excess money should not be used for causes outside of the law school but could instead be used to cover deficits in law school.

Therefore, the General Assembly should rescind the Executive Decision. Subsequent speakers like Campbell Stuart, Richard Janda and Joan Vance filled in the historical gaps in the presentation made by Antoinette Bozac. As was pointed out by Janda, who called the discussion bizarre, the Executive had put this issue on the agenda but the LUS Council did not reach quorum. Notably, the organizers of the petition were not present. Two weeks after that the LUS Council had ratified the Executive's decision. Joan Vance added that when the Executive had taken the decision they were in good faith because they were of the opinion that the issue was legal, namely immigration law, and not political.

Campbell Stuart divided the problem into two separate points, the procedural and political positions. Regarding the political issue, in his opinion, the motion should address itself to the fact that money could be given or not to Regalado or similar causes. On the merits he was of the opionion that this

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Here we go again Mama

The Bozac Motion explained: A quasi-political statement

By Antoinette Bozac

I have been approached to explain the "thrust" of the motion presented to the Executive in the form of a petition at the March 18 General Assembly. So, here goes —but remember the following comments represent my opinions only.

Destruction of a Motion: logic vs emotion

Several issues arose as a result of the action taken by the Executive ($250 donation to Regalado): (a) whether the procedure followed by the Executive was proper?; and (b) whether such a grant (to a non-student related activity) is legitimate? The motion was concerned with the former issue — i.e., the procedural, not substantive matter. The money could have gone to the Greenpeace organization and this article nonetheless would have been written —humanitarianism is NOT the issue! However, as expected, emotional politics surged way ahead of principle politics and, not surprisingly, the majority who spoke at the General Assembly chose to refer to the substantive. But that's OK — this is what a General Assembly is all about, a kind of meeting of the minds (and hearts).

Constitutional and Many Other Questions: Procedure

Four questions should have been asked by the Executive prior to the decision of granting $250.00 to the Ligue de Droits et Libertés for the publication of an ad in support of Mr. Regalado: (1) Does the Executive have the mandate to disburse monies from LUS funds to non-student-related activities?; (2) Does the constitution provide the Executive with a wide enough discretion to take such a decision?; (3) Is such a decision "in the best interests of the students" the Executive are elected to represent?; and (4) If the answers to questions (2) and (3) are negative, how can the Executive justify or ratify such an action?

Question (1) can only be answered after examination of the Senate regulations regarding student services fees, of the Students' Society regulations on distribution of such fees to faculty associations, and of the LUS constitution. Question (2) deals with the issue of whether such an action falls under the "general powers and duties" article of the section entitled "Executive" of the constitution. The answers to questions (3) and (4) depend on your appreciation of the role of the Executive in the LUS as elected officials. One appreciation is to view the Executive in a confidence position answerable to its electorate, the students in this faculty. The Executive has a type of fiduciary duty to control the purse strings and to act "in the best interests of its constituency". Indeed, the constitution named the General Assembly, not the Executive nor the Council, as the ultimate decision-making body of the organization.

The Greater Question: What is the LUS?

Finally, the issue boils down to what the LUS stands for, what it is, where it goes from here and for whom. When we will have resolved this identity crisis, only then can we decide on the substantive merits of any donation (whether it be to Regalado or Oxfam or Greenpeace.) The identity crisis itself revolves around your perception and definition of "student representation". Is the student representative a representative for students, or is s/he a representative who is a student? The former explanation summarizes my beliefs best. When you vote in a federal election, do you vote for one candidate over the other because you feel (you hope) s/he will better represent *your* interests, OR do you vote for the candidate you feel will represent the best interests of the rest of the world?? The $250,00 grant was not in my, but the Ligue's, best interest. The decision to spend $250.00 out of LUS funds for an extraordinary expenditure was made without consultation with the members of the LUS.

New Faces, Old Politics: some history from the bones

In the early 1970's, many Executives of different student organizations promoted what can only now be called "Politics of Distraction", i.e.: a concern for the "larger issues in society" against a concern for the "petty particular needs of students". During those days, it was always more fun to attack the Paper Tiger than to deal with the bread and butter issues affecting students (e.g., increased library resources, lower costs for schoolbooks, etc.) Financial policies were not seen as useful or necessary tools in what was a situation governed by "politics of Morality". The result was the eventual receivership of at least two anglophone university student organizations in Québec — enter then the "politics of Ultra-Bureaucracy" (but that's another article.)

I envisage two steps with this Regalado/-Ligue donation. One, did the Executive have the power to make such a grant which is extraordinary and non student-related? According to my interpretation of the constitution (albeit humble), only the General Assembly, NOT the Council, could give the Executive such a power. Two, only at the General Assembly called for this purpose could the substantive merits have been discussed. This discussion then would have considered the eventual direction of the LUS, its role and its identity.

Since the decision had been made prior to any calling of the General Assembly and, for what it's worth, of the Council, since students were never asked whether they agreed with the grant, since no alternatives were suggested to help Regalado (e.g., through dance proceeds, fund-raising, etc.) and since most Executive members personally guaranteed that money, it was (and I) felt that the $250.00 should be reimbursed to the LUS.

In light of budgetary cutbacks, I could envisage some bread and butter issues which could easily benefit from the $250.00 — a change machine on the 4th floor, longer library hours, even *Quid Novi*. Thank you.

General Assembly

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cause was a good one to support since the adage "audi alterum partem" was violated. In this context he read a letter sent by the Ligue des Droits et Libertés to express their thanks to the Executive.

Regarding the procedural side, the issue should be whether a consultation procedure should be used in the future.

The discussion then shifted to those comments to the procedural aspects of the Executive decision. Some people expressed their surprise that the proposed motion offered no alternative to the present procedure, the organizers of the motion were only interested in penalizing the Executive, it seemed, and that the sense of the motion had not been sincere.

The General Assembly slowly moved to consensus on several points: the Executive should not be penalized because there had been good faith on their part in making the decision; in decisions which do not directly involve law school, a consultation of the General Assembly should be required; a consultation procedure should be established.

The political issue was barely touched upon. Some people did not agree that money was given to the Regalado Defence Fund because it was outside the law school and others added that for causes such as this, separate fund-raising activities should be sought as an alternative. Apart from these comments no proposals or motions in that direction were made. In order to answer those questions and in order to discuss the rest of the agenda another G.A. is scheduled for March 25.

Federalism in for a beating, Robertson warns

By Richard Janda

It was a lot of bad news and a bit of good news from Gordon Robertson, former Secretary to the Cabinet for federal-provincial relations and Clerk of the Privy Council. Speaking to Forum National on March 2, Mr. Robertson recorded some of his observations on the state of federalism in the aftermath of the consensus reached on the Constitution, and his prognosis for the short term was bleak.

The Constitutional package,which had gained its impetus from the Québec referendum and was billed as a constructive response to Québec's willingness to put faith in Canadian federalism, turned out to be nothing like the renewal that was promised by those who urged a "Non" vote, Robertson emphasized. From the standpoint of the referendum, the kind of structural revision which would go to the distribution of powers especially in the fields of communications, the economy, and family law, was nowhere to be found in the package. And reform of the Senate and the Supreme Court was conspicuous in its absence. So, Robertson suggested, those who had urged a "Oui" vote and had said that to vote "Non" was to vote for the status quo, had in an important way been proven correct. All this while Québec was once more isolated in its position on federalism.

While some of the long-term structural problems in federal-provincial relations had been the subject of negotiation and pages of proposals and counter-proposals, the focus was off the constitution and was likely to remain so for some time. The package included only a committment to one more conference—a conference on Native Rights—and it was doubtful that the public would tolerate or politicians want to indulge themselves in more constitutional wrangling. Economic problems were, for the foreseeable future, bound to occupy the field of political discussion, and were also bound to exacerbate the tensions within federalism. Canada, already according to Robertson "the most quarrelsome of any federal system in the world" was going to become more quarrelsome. The Prime Minister had already declared the end to "friendly federalism", thus encapsulating the position of the federal Liberal Party that there had been a swing too far in the direction of increased provincial powers and that the federal government was now obliged to bring the "centrifugal forces on confederation" under control. Furthermore, because both federal and provincial governments were "hard up", their problems could not be "floated off with money".

Of course, whatever was included in the constitutional package was not doing much to strengthen bonds in the federal system. The Charter is viewed as an assault on Bill 101, and mobility rights in particular are felt to expose the Québec job market. Economic problems would, in the immediate future, be at least bad in Québec as in the rest of the country and would be blamed on federalism. And the next Québec election was to be on independence. Thus, as far as Québec was concerned, Robertson concluded that there was much in store that was divisive and potentially a good deal that the Parti Québécois could use to strengthen its position.

Even though he did not have any simple solutions to offer for these difficulties, Mr. Robertson resisted the position that there were no solutions, short of Québec's independence, to be found, In general, he noted that what was needed was a different attitude toward working within the mechanism of federalism. At every turn, the federal government had to seek solutions which managed to diffuse confrontation through the mechanism of low-key negotiations and procedures of implementation which would allow both sides to claim a victory. And certain positive factors in the present political climate were to be reinforced and capitalized upon. First, although the constitutional consensus had difficulties, it was about as good as could reasonably have been hoped to be. Had there been a unilateral move by the federal government, things would have been much worse even in Québec. Furthermore, it was probably unreasonable to expect that Québec would have been part of a consensus. Second, the francophone population of Québec has progressed a long way since the days of the "conservative and negative" philosophy of the Duplessis era. The expansion of education, welfare, and public services together with the economic coming of age as symbolized by the development of Québec hydro power had, in those respects, brought Québec's position on social policy within the sphere of debate in Canada as a whole. Third, English-speaking

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Rape: The legal issue

By Pearl ELiadis

Could rape be just what the doctor ordered? The case law shows us that men often alluded to alleged medicinal benefits of sex in order to persuade reluctant women, when "come up and see my etchings" has failed. Verbal persuasion of this sort may well be less physically damaging than many of the violent acts that characterize recent "headline" rapes, but it is rape.

Joannie Vance, former coordinator of rape crisis centers, took her audience on a fascinating tour of the legal issues of what appears to be the most controversial of crimes. Introducing the hour long talk, Vance discussed the historical aspects of rape from the time of the Babylonians to the most recent proposed amendments of the *Criminal Code*.

In ancient times, the virginity of a woman had substantial pecuniary value to her father. Once a woman was raped, her "bride price" vanished and the future engagement was broken. In pre-medievel England, rape was considered as crime committed against the man (whether father or husband) rather than the raped woman (rape was declared a felony in 1285 AD, whereas the Statutes of Westminster of 1275 had declared rape to be only a misdemeanor).

Although women are no longer considered as property (at least by most men...) a woman's attempt to convict the rapist is still hampered by considerable social and legal barriers. As recently as 1962 Glanville Williams attributed these difficulties to fear by men that women will accuse "innocent" men out of jealousy, sexual frustration and shame. Another social barrier sanctioned by law is the woman's sexual past, which has traditionally been used as a defence for the rapist. Yet another is the fact that a man cannot rape his wife. Presumably, the marriage contract ensures eternal consent, whatever the means used to elicit that consent. The doctrine of recent complaint was also a bar to indictment, and thus if a woman delayed in reporting the rape, she had virtually no chance of seeing the rapist convicted. The recently proposed amendments to the *Criminal Code* (currently in their second reading) have abolished this doctrine, but they are not law yet. These proposed amendments also do away with the woman's sexual past (if we are to follow the vocabulary of Laskin, C.J., substitute "misconduct" for "past") as evidence of her credibility. Rather, such evidence will be considered with respect to the accused's belief that the woman had consented.

Vance also pointed out that the *Criminal Code* makes a distinction between indecent assault perpetrated by a man against a man (which carries a sentence of ten years imprisonment) and against a woman (which carries a sentence of only five years).

It is hoped that the new amendments to the *Criminal Code* will aid women in trial proceedings that have heretofore been difficult and degrading for the woman pressing charges. In addition to the proposed changes already mentioned, the victim will no longer be a compellable witness for the accused, but the "reasonable belief" test used to determine whether or not threatened bodily harm had actually existed will continue to be determined by a subjective test.

Editorial:

Sorry Oxfam, we've got problems here

The Regalado donation touched off the greatest burst of emotion seen in the student body this school year, and it's too bad the energy was spent on in-fighting. In a way it is a tribute to the student leadership in the LUS that student-faculty tensions have been replaced by tensions within the student body. In other words, failing the appearance of a big enemy from the outside, we turn on ourselves. It is important to have demonstrated to Faculty that we will work constructively to be integrated into the formation of direction for the Law School — not simply *qua* students but *qua* participants in the common task of reaching academic excellence here. And maybe they have done this at the expense of maintaining a high student profile. At the same time, however, the new leadership would do well to bear in mind that General Assemblies, if used productively to bring forward a broader set of issues concerning the goals of Faculty policy (e.g. why is admissions policy in disarray?, what are some of the difficulties behind hiring policy?), could encourage the student body as a whole to consider and perhaps participate in redressing these problems. The frame of reference should still be constructive participation in Faculty affairs. But more attention should be paid to broadening an already active debate on these questions and focussing student attention on it (as was done with cutbacks, as was done with the Office des professions). Otherwise, for lack of an issue, squabbles, by right "non-events", get raised to the level of "what happened at the school this year".

In saying this, it is not implied that we shoudn't seriously consider questions like what should be done with extra funds, what the LUS mandate is, and what constitutes an expenditure of funds which is, if you will, of law students, by law students, and for law students. Let us consider, then, there are at present two sources of "extra" funds. The first is a $6,000 term deposit. The second is a $2,000 (but steadily shrinking with continued disbursements) "surplus". The new Treasurer should determine at the outset what size of balance is needed to maintain a workable cushion for LUS (now LSA) expenditure. In other words, assuming the LSA, like the Bookstore, should have a safe margin for its operation in case any major need for funding arises or the LSA goes into debt, exactly how large should that margin be? Areas of potential loss should be isolated and a calculation made. For example, $6,000 is equivalent to about half the total receipts for a year. The largest outlay is in social expenses — about $3,000. If social activities were a failure for one year running, the money they bring in, about $3,500 this year for a net profit, would be lost and the LSA would have to cover them. Arguably, not breaking even on social events (as the *Quid Novi* Party almost demonstrated, but thanks for coming, every little bit helped) is a contingency the LSA should be prepared for. Whether a calculation is based on being able to cover a certain percentage of the total present budget, whether it is based on being able to cover the largest source of potential loss, or whether it is based on something an accountant would know more about, this kind of consideration should be made.

This would still, however, likely leave us with extra money at least from the surplus this year. All this leads to the question, what is the mandate of the LSA in spending money? On something unusual and probably unforeseen, like a surplus, consultation with students is imperative. While it is important to preserve the authority of the LSA Council as a representative body whose purpose is to act on behalf of students, extraordinary circumstances demand more extraordinary consultation. By way of contrast, LUS Council, in deciding on the Regalado donation, was disbursing funds in a way that is part of their mandate. And this brings us to the question of what is an expenditure on behalf of the students.

It should not be under-estimated that as a Law Student Association, we are necessarily bound up with legal issues and can have the effect of moral suasion in taking a public stand on legal issues. Insofar as the LSA Council uses this public persona for the sake of matters related to the law it acts in an appropriate sphere for a body of law students. It is not just being "humanitarian". It is accepting the responsibility of speaking with potential influence. Perhaps such stands should be limited in number and taken in consensus. And they should, as at present, be reviewable in General Assembly as matters of substance. But the capacity to take such stands should not be denied us. The LUS took an unprecedented and courageous step on the Regalado affair. It was right that the problem focussed on be legal, non-partisan, Canadian, and capable of local influence by the LUS. And the decision was reviewed in General Assembly. By these criteria what was done was within the mandate and an appropriate expenditure.

However, when we turn to disposing of the surplus, a different issue arises. Here our objective should not be to seek out some nice cause for the sake of finding one. If something particularly connected to law students arises, fine. But there is so much of student concern that money could be spent on. The library is under-funded. What about a donation? What about contributing part in an arrangement with the Dean to preserve French language sections of courses? What, in other words, about fighting cutbacks in our own backyard if we happen to have an extraordinary extra sum?

Regalado, as a concern of law students, made sense. Oxfam does not. A calculated and effective public act deserved support. The Oxfam donation is designed to be generous and humanitarian because "nous sommes riches". While one applauds a good heart, the reality is rather "nous sommes chanceux". We should use the opportunity that a surplus affords us to best serve the needs of students. Their several good hearts should be relied on to help the needy.

In sum, one must be careful to note that there may be need for a cushion. If so, we are not talking about donating 10 per cent of $8,000, but maybe more like 40 per cent of $2,000. And no matter how you slice it, we don't have to look far afield to find good causes.

Richard Janda

Harold's platform

1. A referendum on: "Is the Dean's position necessary? A committee of 3 or 4 students appointed by the president would run the Dean's office, saving the faculty about $50,000 annually.
2. A beer machine would replace the coke machine at a lower price.
3. David Peippo would have to take a lie detector test.
4. A new McDonald franchise would be opened in the Associate Dean's office.
5. Prof. Grey would be farmed out at Blue Bonnets as a stud.
6. All students would be able to park free, except Mrs. Hale. Her car would be towed away.

Quid Novi

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National Program rejuvenated

By Richard Janda

Faculty Council has given McGill's National Programme a face-lift and in doing so has managed to reach a consensus among B.C.L., LL.B., student and faculty members. And all this comes after several years of indecision and prolonged controversy in the Curriculum Committee.

The five motions that were adopted read as follows:

(a) BE IT MOVED that all B.C.L. students not in the National Program be required to take either Contracts I or Property IA in their second year.

(b) BE IT MOVED that all LL.B. students not in the National Program be required to take Obligations I, Obligations II and Property I in their second year.

(c) BE IT MOVED that B.C.L. students wishing to enter the National Program (2 degrees, 4 years) be required to take Contracts I, Torts I and Property IA in their second year.

(d) BE IT MOVED that LL.B. students wishing to enter the National Program (2 degrees, 4 years) be required to take Obligations I, Obligations II, Property I and Judicial Law I in their second year.

(e) Be it MOVED that where Faculty resources and interest permit, and to the extent feasible, a three year experiment be undertaken with the establishment of separate upper year sections in any or all of the following courses: Obligations I, Obligations II, Property I, Contracts I, Torts I and Property IA."

Curriculum Committee Rod Macdonald, in presenting the motion, outlined that the purpose of the revision was to give a "solid foundation in each legal tradition" under conditions of "sufficient exposure". The first four motions constitute a change in streaming within the school. Motion (c) will mean that students will have to decide on entering the National Program after their first year. Professor Bridge asked whether there would be any "penalty" imposed on students who wished to enter the National Program stream after second year. Macdonald replied that in practise not much would change since the Dean and Associate Dean have discretion to waive requirements. Furthermore, he cited statistics to illustrate that B.C.L. students for the most part take the required core of LL.B. courses for the National Program by third year. LL.B. students do not, at present, opt into the National Programcore of B.C.L. courses with high frequency. However, they too tend to complete their general B.C.L. requirements by third year.

On balance, there would definitely be a push to "cover one's bases" and to take the higher quota of National Program courses. Since these courses are prerequisites for others, failure to take them early on might, in practise, mean that late "opters-in" might need an extra term to complete the Program. It should be emphasized that these changes apply only to incoming students and not to the present student body, although nothing prevents present students from following the new streaming.

Motion (e) turned out to be the most controversial proposal despite its simply hortatory nature. Dean Brierley provoked discussion when he asked whether the proposal to establish separate upper-year sections of core courses in the other stream implied that the present arrangement was a failure. Macdonald replied that first year courses, among other things, suffered from the syndrome of back row boredom and disruption. The preliminaries of introducing law to first year students proved taxing to upper year students and certain discussions lacked sophistication since many of the approaches and solutions were familiar. To this Prof. Grey replied that a prime goal of the school should always remain to preserve a mixture of students from both streams so as to create a community rather than two solitudes. And Prof. Haanappel wondered about the degree to which a separate upper-year section would imply a need to re-work the course entirely and make it more comparative. Several speakers replied that an upper year section need not greatly detract from the goal of mixing students, which took place in National and elective courses, and drew the distinction between mixing years and mixing streams. Furthermore, it was urged that an upper-year section would not become simply comparative. The objective remained to ground the student in that system. But topics that might not otherwise be covered could be treated and some element of comparative discussion could be included. Some thought that this might set up a hierarchy of courses, but Prof. Scott remarked that such complaints were about a course being "too good", which he found "absurd". Prof. Foster suggested that for a good B.C.L. training one might wish to enter the LL.B. program and vice versa.

An amendment to motion (e) made it clear that the proposal was to be carried out on an experimental basis over the next three years. Asked after the meeting, Prof. Macdonald said that next year's offerings would depend on money and time-tabling, but the objective was to offer some courses, perhaps one or two, with separate upper-year sections. Upper-year students would maintain the option to take a French first-year section, but otherwise they would be enrolled in the separate section.

Robertson . . .

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Canada outside Québec was now more understanding than before. For example, after the *Forest* case, the approach of the Manitoba government to the rights of francophones had been positive. And, as had never before been the case, the provinces agreed in the concensus of last November to include entrenchment of language rights for francophones outside Québec—this despite inequality of guarantees for anglophones in Québec. And finally, Robertson expressed the opinion that the English-speaking minority in Québec had become more realistic in its perception of the French majority.

While constitutional change seemed unlikely in the imediate future, renewal through shifts in process within the framework of the constitution remained possible. Robertson noted that there was "a strong underlying wish on the part of a reasonable majority for accommodation". The question remained as to whether the political leadership of the country would come to reflect that wish quickly enough.

McGILL LEGAL INFORMATION RESEARCH GROUP SUMMER EMPLOYMENT 1982

Submit your c.v.'s outlining experience in:
legal research, communications, translation, accounting, typing.

Projects for this summer:
A book: *Once Upon a Time our Constitution was in Great Britain;* A series of pamphlets on medical law; translations.

Nine full-time positions are available — Québec minimum wage. This summer's budget is $47,000. Deadline for submission of C.V.'s is *April 1st* to S.A.O. Sign up for an interview (to be held April 2nd). For further information see Renée Vézina.

Vote Harold for Prez

L.U.S. discusses policy

By Joseph Rikhof

The LUS Council discussed the following topics: an Anti-Acclamation motion, the year-end report of the Executive, the fund-raising Phone-A-Thon schedulted for March 22 and the donation motion to give 10 per cent of the yearly surplus to charity. The last point on the agenda, the Exam Timetable, could not be discussed because of lack of quorum.

The Anti-Acclamation Motion

This motion was suggested by Ron Lucciola and had as an objective to extend the nomination period for elections to one day for positions for which none or just one candidate was nominated. The purpose was to give new people an opportunity to enter the competition. The LUS Council members were generally in favour of this motion but the difficuty was how to include this in the constitution. It was deemed improper to add this motion to the referendum on March 17, therefore it will be a question on the general election date of March 24.

The Year End Report

As Campbell Stuart explained, the purpose of this report was threefold: to thank people, to show what has been achieved over the previous year and to give election candidates causes to run for. It was the consensus of the Council that this practice should be continued next year. A motion was adopted to oblige everyone on the LUS Council who holds a position to write a report which would be submitted to the LUS Council. This would also be extended to every committee in which students participate.

Fund Raising Phone-A-Thon

This item was basically a request for volunteers. It involved a $250,000.00 challenge donation for which people have to make telephone calls. Campbell invited every interested person to contact him prior to March 22.

LUS Donation

François Crépeau submitted the following motion:

a) Be it moved that the LUS donate $800.00 (10 per cent) of its estimated net assets for 1981-82 to OXFAM, this decision to be ratified by the General Assembly, March 18.

b) Be it moved that the LUS adopt as a policy other principle of donating 10 per cent of its annual net assets to charitable orgaizations.

The $8000.00 in question consists of $6000.00 term deposits and $2000.00 surplus. The opinions were divided on this question. Some thought it was a good idea because it would demonstrate that law students are interested in what is going on outside the law school and it would be a symbolic collective gesture. Others took the opposing view, namely that the LUS Council was not the proper place to make decisions of this political nature. If there was a surplus it should be given to the clubs in financial need. If money is required for outside activities a fund raising drive would be sufficient. Danny Gogek raised the point that underlying this discussion was the question of what is the proper level of assets that an organization like the LUS needs in the case of emergency. Also, he stressed the difference between assets and revenue and wanted to know how spending of assets, not revenues, could be justified as a policy question. Antoinette Bozac asked what the financial policy of the Council was in general. It was decided to accept the first part of the motion and due to the lack of quorum, the second part, the important policy question, was not dealt with.

Ted Bridge seen at seance

By Paul Mayer

"The hours are very, very long... but it's fun" said Mr. Richard Martel, a labour lawyer at a meeting before a small core of labour freaks last Tuesday. The Canadian Bar Association held a seance at which two practicing labour lawyers gave an informal talk to just as many students. Martel, a management lawyer with twelve years of practice for *Martineau Walker*... told the fans that labour law does not compare with any other type of law in that it requires total availability to your clients. For clients a labour problem is all important. The cost of labour is the variable which can influence the state of his business the most. Breakfast meetings at 7:30 a.m. and late night meetings at 11:30 are not uncommon. The relationship of the lawyer with the client is somewhat like a psychologist with a patient. "After fighting all day with his union, a client wants to talk about it all night."

Martel said 70-80 per cent of his time was spent negotiating (between 20-25 collective agreements per year). "It's fun but it's always there... most collective agreements get settled between 12:00 and 1:00 a.m. it seems."

The audience was growing tired by the time Mr. Robert Castiglio, a union lawyer, took the floor, standing in front of a sitting Martel. Castiglio, a partner of *Rivest, Castiglio, Castiglio, La Bele and Schmidt* told how "on the union side, you have few but large clients. Two or three large unions will give you much work. This takes about 55 per cent of your time. Only about 10 per cent of your time is spent on negotiation. The clients are very different from the "educated" management ones. On the union side, you need your time to prepare a case, the witnesses are more difficult to handle..."

During questions both lawyers agreed that it's hard for young lawyers to get into an active practice. Castiglio said when his firm looked for a lawyer they received over a hundred applications. In Montreal there are only five firms on each side of the labour tracks. Martel warned "it's rough to start. Clients do not relate well with a young lawyer who they have not known for a few years. It's hard to get clients in the first two or three years of practice. However, once the barrier is broken you will get money and there is a lot of money in it." All present (except Ted Bridge) rose to their feet and cheered his last words.

Bridge remained silent on the capitalistic attitude showed by Martel when someone asked "Despite all that fun, what about the cost on our family life?" Martel answered that four out of five of the senior partners he worked with are divorced. Castiglio retorted he might know why Martel's colleagues were in that state. He said he was happy with his own family.

In conclusion it was stressed that lawyers are not neutral in negotiating a collective agreement. What is needed is agreement. Drafting is less important. "You must be able to live, work, joke, and get the confidence of the other party." Martel admitted one gets many scars after ten years of practice (despite that, it's fun though) and there's money in it.... At the end a group of students rushed to the stage. Some were seen trying to borrow lunch money. In the hall, Bob Dylan was quoted to say about this experience: "I can't talk now, I'm going down for a cup of coffee, but nothing is better, nothing is best. Take heed of this and get plenty of rest."

Thank you

The McGill Law Journal would like to thank all those who attended Monday's Information Session and especially those who signed up for summer work.

Anyone who missed the meeting but would like to work on the Journal this summer please leave your name at our office in the basement.

If you have any questions don't hesitate to drop by the office or ask any Journal member.

Merci

La Revue de droit aimerait remercier tous ceux qui sont venus à la Session d'information de lundi dernier et en particulier, tous ceux qui ont offert de travailler avec nous.

Si vous n'avez pas pu vous rendre, mais désirez toutefois travailler à la Revue cet été, n'hésitez pas à nous laisser votre nom en passant par le bureau, au sous-sol.

Si vous désirez plus de renseignements, nous vous invitons à venir nous rencontrer.

Background on Regalado

Victor Manuel Regalado Brito, age 33, is a journalist from El Salvador, and a member of the Democratic Nationalist Union (Union Democratica Nationalista, U.D.N.), one of the parties forming the Democratic Revolutionary Front (Frente Democratito Revolucionario, F.D.R.), the coalition of forces opposed to the junta in power in El Salvador.

Mr. Regalado worked as a journalist in El Salvador, mainly at the University of San Salvador and for the "Voice of Central America", a Catholic Church radio station. He came to Canada in 1980, at the invitation of the Centrale de l'Enseignement du Québec and the Latin American Information Agency.

During his stay in Canada in 1980, Mr. Regalado was active in Montreal and other Canadian cities, speaking publicly to church and trade-union organizations on the situation in his country, as well as making contacts for the funding of a hospital for refugees in El Salvador, to be built by Mgr. Romero, Archibishop of San Salvador.

In August of 1980, Mr. Regalado left Canada for Nicaragua to attend a meeting of Salvadoran journalists and students. He then went to live in Mexico.

Immigration Act, Section 39—Security Certificate

After Victor Regalado had left Canada, Solicitor General Robert Kaplan and Immigration Minister Lloyd Axworthy signed in the fall of 1980 a "security certificate" with the following text:

> We, the undersigned, hereby certify that it is our opinion based on security and criminal intelligence reports received and considered by us, which cannot be released in order to protect information sources, that
> *Victor Manuel Regalado*
> is a person described in paragraph 19(1)(f) of the Immigration Act, 1976, his presence in Canada being detrimental to the national interest.

Paragraph 19(1)(f) of the Immigration Act refers to "persons who there are reasonable grounds to believe will, while in Canada, engage in or instigate the subversion by force of any government."

Victor Regalado was not made aware of the security certificate until 1982, and has neither been informed of the charges used against him, nor had a chance to rebut the information contained in the secret police files.

January 1982: A Near Deportation from the Canadian Border to El Salvador

On January 5, 1982, Victor Regalado arrived at the Canadian border south of Montreal, having crossed through the U.S.A. without status. The Canadian Immigration authorities used a legal technicality to send him back to the U.S.A., to wait until he could be processed for entry into Canada. The American Immigration and Naturalization Service (I.N.S.) detained him in a jail in Plattsburg, N.Y. and served him notice that he was to be transferred to Buffalo for a deportation hearing. Only after the intervention of lawyers in Montreal and Toronto was he released by the I.N.S. at the Canadian border, on January 7, 1982.

In Jail for Nine Weeks

Mr. Regalado was informed of the existence of the security certificate only on January 7, 1982, at an Immigration hearing in Montreal. At that time, he made a claim for refugee status stating that his life and security would be in danger should he return to his country.

Basing his decision on the existence of the security certificate, the adjudicator in charge of the hearing ordered that Mr. Regalado be detained, alleging him to be a danger to the Canadian public. Based on this decision, the regional immigration authorities sent him to the Parthenais jail, instead of the Immigration Detention Centre, commonly used in such matters.

It should be noted that as a prisoner in jail, Mr. Regalado had almost no visitor rights, and no contact with the press. The situation would have been different in the Immigration Detention Centre. As we will see, the general attitude of the Immigration Commission in the first two months of Mr. Regalado's detention was consistently to refuse concessions, thus encouraging him to choose a "voluntary" deportation.

At the beginning of March, this attitude had begun to change, and on March 3 the two Ministers involved asked an adjudicator for Mr. Regalado's release. They did not take back the security certificate, however, and did not give any information on the charges against Mr. Regalado. The adjudicator refused to release the prisoner, saying he could not understand how Minister Lloyd Axworthy

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Harold cancels classes . . .

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leagues when the candidates for Faculty Rep. throw candy and cigarettes from the porter's desk between classes. Those of you who felt this was desirable should have approached one of those smiling young men or women in suits (attempting to look like the photos), and *asked* for one of the above. They wouldn't have dared to say no. Editor's Note: do not do this today. Luckily, for the most part, our senses of justice (however badly *warped*, Elissa) have prevented us from encouraging graft and corruption by seeking political patronage. These skills are being saved for the more important task of career promotion.

The conduct of the candidates in this year's election was exceedingly sportsmanlike. They didn't insult each other's proposals, deface each other's posters or send each other toilet seats. One would question whether they have had the time to have contact with the media in the last few weeks to see Canada's top political winners in action. Carol Gingras' competitive spirit shone on Monday when this 90 lb'er was seen romping thru' the halls shouting "I finally have an opponent...". Suffice it to say that the political world at McGill is approximately as preparatory for the real world as is the curriculum?

The most incredible thing about the enthusiastic bunch of individuals involved in the election craze was their apparent oblivion to the fact that exams are fast approaching and making the rest of us at least mildly irritable if not already contemplating you-know-what.

It was suggested by one medically-minded student that these individuals were suffering from some kind of illusion that what really matters, are things like resonsible government and making positive, constructive changes in the school. He added that campaigning was some form of defence mechanism designed to deal with the pressure of exams. The chances of *winning*, however, and having to serve time pursuing all those impossible objectives for the next school year, leave most students quite happy to make use of mechanisms such as "those losers who don't have to study for supps will have to find summer employment, Ha Ha."

Once again this year, the candidate with the most persuasive campaign was Harold. Campaign aides dismiss reports that Harold's mass media blitz peaked too early. On the contrary, they claim, Harold will garner moderate right and center support, just like the junta in El Salvador. Despite high security precautions, Harold's renegades categorically deny that he is playing a "rose garden" game. "We'll come out firing when we're ready" said an aide-de-camp. "I know the press is against us," he continued, "but that's O.K. No victory party reception for them!"

And so, the "election craze" over, life at McGill continues. The majority of students are proud to have survived yet another form of the collective madness that seizes portions of the student body at various times during the year. Even those students who found the whole thing to be simply "more evidence of the debilitating effect of law school" can derive that much satisfaction. The law student learns to shake his head and ignore such distractions, all the while reassuring himself that *he* is one of the people who is going to leave this place *normal*.

CADED accepts new constitution

Finally, the Charter, that was proposed by the McGill delegation two months ago, was accepted by CADED on Saturday, March 19. All the members were present and the constitutional change was taken unanimously. It was also decided that the University of Ottawa would organize the first conference in the fall of 1982.

Regalado . . .

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could claim for eight weeks that Mr. Regalado was a danger for the Canadian public, based solely on the existence of the security certificate, and then ask for his release with the same certificate still filed as proof against Mr. Regalado. In effect, this decision demanded that the Minister demonstrate some change in the facts of Mr.Regalado's case if the Minister now desired the prisoner's release.

On March 11, 1982, the Manpower and Immigration Commission asked again for Victor Regalado's release, using the same arguements that Mr. Regalado's lawyers put forward at all the previous hearings. In essence, the two Ministers attested that their security certificate had never implied that Mr. Regalado posed a danger to the Canadian public. Adjudicator Michel Meunier, noting the inconsistency of the Immigration Department's arguments over the nine-week period, ruled that Mr. Regalado was not a danger and should be freed.

Refugee Status and Deportation

On February 5, Mr. Lloyd Axworthy granted Mr. Regalado refugee status, thereby recognising that his life would be in danger should he be returned to El Salvador, or sent back to the United States, a country that would deport him to El Salvador.

Neverthless, on February 17 Mr. Regalado was ordered deported, based on the security certificate. He still does not know the specific grounds on which the Ministers issued the certificate, and has had no opportunity to deny these grounds.

The adjudicator hearing the case on February 17 declined to hear Mr. Regalado or witnesses on his behalf, or to require the Ministers to produce evidence, ruling that "the ministers' certificate is incontestable".

Mr. Regalado has filed an appeal against the deportation order, and is to be heard before the Immigration Appeal Board at the end of March.

Partial Victories

The Minister's reversal of position in asking for Mr. Regalado's release is not the only victory achieved to date. Mr. Axworthy stated in the House of Parliament on February 10 that he would not deport Mr. Regalado to the U.S. or El Salvador, and that Mr. Regalado would be given an opportunity to locate a receptive third country.

However, Victor Regalado has not yet had the opportunity to defend himself against the 'secret' police reports. He stated to reporters that he is determined to remain in Canada as long as necessary to prove to the Canadian people that he is innocent, even if it means months in prison. He does not want to leave Canada under a cloud of suspicion based on undisclosed allegations which would follow him the rest of his life.

It is important to note that the partial victories obtained so far are steps toward a complete solution of the Regalado case. These successes are the direct result of the impressive public support that exists for Victor Regalado.

Thousands of concerned Canadians and representative organizations have demanded that justice be done to Victor Regalado; that he be given the chance to defend himself and be allowed to stay in Canada as a refugee. The list includes two Catholic bishops, four members of the Quebec national Assembly, three federal members of Parliament, the heads of Amnesty International and the Quebec Human Rights Commission, presidents of trade-union confederations, women's groups, religious organizations, immigrant groups, international development organizations, etc.

The Issues

The issues arising from the Regalado case go much further than the personal situation of Victor Regalado. They involve the basic questions of human rights, of the treatment of refugees in Canada, and of Canada's policy towards El Salvador.

In 1976 and 1977, when the new Immigration Act (Bill C-24) was before Parliament, many concerned Canadians pointed to the potential dangers posed by the logic of "National security", introduced in several sections of the new Act. Before 1976, what is now paragraph 19(1)(f) made persons engaging in the forceful subversion of a *democratic* government liable to deportation. The charges had to be proved, and the accused person could defend himself. The Act now refers to "any" government, and a 8½ by 11 certificate can serve as complete proof, with no defence possible. It was said at that time that under the new Act, even someone working against Nazi Germany would have been deported from Canada.

Mr. Regalado and his lawyers have not requested access to the secret police reports, but only the basic information which would make it possible to defend him. Victor Regalado should not be forced to leave Canada before this very minimum of justice has been done.

Now that Mr. Regalado has actually been released, it is more important than ever to strive for a breakthrough on the main question involved in this case. Such a breakthrough could involve:

- quashing of the deportation order by a superior tribunal or court;
- withdrawal of the security certificate;
- a change in the Minister's policy leading to a political solution of the problem;
- at the very least, disclosure of specific charges permitting Mr. Regalado to make a full defence.

In Montreal, a defence committee has been set up, and is collecting signatures for a public petition. Donations are necessary for the public opinion and legal work. Four well-known personalities are administrating the defence fund. The administrators of the Victor Regalado Defence Committee and the Defence Fund may be reached at the Quebec Human Rights League (Ligue des Droits et Libertés), 1825 Champlain Street, Montreal.

In the rest of Canada, the campaign is led by local El Salvador solidarity groups and by Church groups such as the Inter Church Committee for refugees and the Inter Church Committee for Human Rights in Latin America of the Canadian Council of Churches. These groups may be contacted by all persons. All forms of support and public pressure are necessary: letters to the editor and to local M.P.s, public declarations, etc. It would be helpful if you would inform the Defense Committee of any work done in your region. The Committee will reply to all requests for information.

Victor Regalado Defence Committee
Victor Regalado Defence Funds,

1825, Champlain Street,
Montreal, Quebec
H2L 2S9

Coming Events

Thursday, March 25

General Assembly
Discussion of divestment of L.U.S. funds from Bank of Montreal. 1:00 p.m. in the Moot Court

Faculty Council Meeting
Motion to increase student representation on Faculty Council. 4:00 p.m. in Rm. 202

BCL/LLB II, BCL/LLB IV
Class party at Thompson House

Friday, March 26

McGill International Law Society
Speaker: A. Charron, representative from the European Economic Community, 1:00 p.m.

Tuesday March 30

The Law & the Environment
Speaker David Williams, President, Wolfson College, Cambridge. 5:00 p.m., Moot Court.

Lost and Found

Found: A brown coat left at the Union Ballroom, Friday, March 18. Can be claimed at the LSA Office.